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**REMARKS**

As an initial matter, the Applicant points out that this Reissue Application was filed approximately 4 years ago on August 13, 2001 under a **NOTICE OF LITIGATION** in the United States District Court for the Middle District of Tennessee (at Nashville), Docket No. 01-01-0201. MPEP 1441, notwithstanding the 2-month delay period, states explicitly, "37 C.F.R. 1.176 provides that reissue applications will be acted on by the Examiner in advance of other applications, i.e., "special." MPEP 1442.03 states, "Furthermore, reissue applications involved in 'stayed litigation' will be taken up for action in advance of other reissue applications. Great emphasis is placed on the expedited processing of such reissue applications. Courts are especially interested in expedited processing in the Office where litigation is stayed."

The Applicant thanks the Examiner for indicating that claims 1, 2-5, 9-12, 16-18, 23, 24, 26-28, 32, 41 and 50 are allowed. Pursuant to the interview and discussion between the Examiner and the undersigned representative of the Applicant on January 18, 2005 regarding the formalities of this reissue, a corrected version of the claims as compared to the originally issued claims in accordance with 37 CFR 1.173(b) and (g) is submitted herewith, i.e., the "new" claims are herewith submitted with the appropriate underlining to show the added claim material i.e., claims 2-5, 9-12, 16-18, 23, 24, 26-28, 32, 41 and 50, with respect to the originally issued single claim of the '818 patent. Also the parenthetical claim description for each claim has been changed to reflect the appropriate expression, "amended", "twice amended", etc., following the claim number.

In discussions with the Examiner it has come to the Applicant's attention that claim 1 was amended during prosecution beyond the mere correction of the Patent Office's printing error of "form" to "from" as intended by the Applicant to include the further step of "loading the at least one maneuverable rack back onto the transfer vehicle. . .". Although it was initially contemplated to amend claim 1, after further consideration the Applicant's intent was not to amend claim 1 other than to correct the Patent Office's printing error. This is shown by the inconsistency between the clean version of claim 1 and the marked-up version of claim 1 from the Applicant's response of 3/1/2002. This discrepancy in claim 1 between the submitted papers should not have been entered by the Patent Office, but returned to the Applicant as an improper amendment. Thus, the improper claim amendment could have been resolved earlier in the prosecution. The claim amendment has since been inadvertently maintained in claim 1 to the present.

More specifically, in the last paragraph of claim 1, the contemplated step of "loading the at least one maneuverable rack back onto the transfer vehicle. . ." was not intended to

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overcome any particular rejection by the Examiner, but more as an attempt to further differentiate the claims from the cited Colato et al. '736 reference. Furthermore, the Applicant believes that this amendment to claim 1 is superfluous in that such a feature is not necessary to define patentable subject matter in claim 1 over the prior art.

Throughout prosecution, the Applicant's arguments regarding patentability centered mainly around the fundamental difference that Colato et al. '736 always required the use and mobility of the cumbersome and complicated food regeneration cart between the central food preparation area and the point of food regeneration. As pointed out by the Applicant at page 14, last paragraph of the March 1, 2002 response relative to the applied Colato et al. '736 reference, "In contrast, under Applicant's method, the regeneration receptacle is not loaded at the central food preparation area and transported to a remote location from the central food preparation area for regeneration of the food. Rather, in accordance with Applicant's invention, only the rack loaded with trays of food is transported between the central food preparation area and the remote location, which eliminates the need for expensive regeneration carts to be transported outside the site where they are used." This fundamental difference is recited in a similar manner in each independent claim and was reiterated throughout the Applicant's response and, in subsequent responses, eventually leading to the allowability of the current independent claims 1, 2 and 32.

The Applicant also points out that none of the Examiner's rejections or arguments throughout prosecution relating to patentability of claim 1 or any of the independent or dependent claims, indicate the necessity or plausibility that such a feature, i.e., "loading the at least one maneuverable rack back onto the transfer vehicle" would make the subject matter of the claims allowable. By way of example, none of the other independent claims 2 or 32 contain such a feature or step. In other words, the inadvertently added step of "loading the at least one maneuverable rack back onto the transfer vehicle" in claim 1 is not believed to have any bearing on the patentability of the claimed subject matter and is essentially reiterative of the main distinction noted in the previous paragraph above between Colato et al. '736 and the present invention. Accordingly, it is the Applicant's intention, noting the correction based on the printing error of "form" and "from", that claim 1 is allowable with the same scope as initially granted in the original patent.

In the event that the Examiner disagrees with the Applicant's remarks with respect to the currently amended claim 1 or that claim 1 is not allowable as written above in the same manner as originally allowed in the '818 patent, the Applicant requests that the Examiner telephone the undersigned Attorney of Record to discuss the issue. In the event that an

agreement on claim 1 cannot be reached, the Applicant requests that prosecution on the merits be reopened so that the matter of this inadvertent amendment can be resolved.

In accordance with 37 C.F.R. 1.173 (c), the presentation of the new claims 2-5, 9-12, 16-18, 23, 24, 26-28, 32, 41 and 50 are completely underlined and, as required, do not contain any indication of what is changed from the previous versions of the claims. The Applicant believes that for most all the substantive amendments appropriate remarks were made in the associated responses to show support for such amendments in the specification. In order to be fully responsive to this requirement, the Applicant provides the following summary in chart form of each amended claim, as well as an explanation of the support in the patent specification for each change or amendment. If any further explanation or analysis is believed necessary the Applicant respectfully requests the Examiner to contact the undersigned Attorney of Record to discuss the same.

**CLAIM AMENDMENT CHART COMPLYING WITH 37 C.F.R. 1.173 (c)**

Claim No.	Response Date	Claim Amendment/Change	Specification Support
Claim 1	3/1/2002	(a) spelling correction, "form" to "from";	Printing error from original patent.
		(b) added step of "loading the at least one maneuverable rack back onto the transfer vehicle";	Specification, col. 3, Ins 37-44 expressly discussing the vehicle return of the trays to the supply location.
	3/23/2005	(c) removed step of "loading the at least one maneuverable rack back onto the transfer vehicle";	See "Remarks" paras. 3-6 of this response.
Claim 2	3/1/2002	(a) added term "transfer vehicle", In. 7;	Specification, col. 3, Ins.18-20 referring expressly to a "refrigerated transfer vehicle".
		(b)step of "transferring the rack from transfer vehicle to a receptacle at the second location"	Specification, col. 3, Ins. 26-28 expressly disclosing loading trays into a regeneration trolley.
		(c) replacing term "regeneration" with "rethermalizing"	Examiner's requirement from Official Action of 2/01/02, page 4, section 8, 2 <sup>nd</sup> paragraph.
	11/4/2002	(d) added phrases "at a first location" and "at a second location" in Ins. 3 and 16 respectively.	Specification col. 3, Ins 9-23 discussing transfer of racks and trays from supply location 30 to consumer location 31.

		(e) added steps of "loading the rack, stacked with the plurality of trays, onto a refrigerated transfer vehicle for transportation to a second location...." and "transporting the rack, containing the plurality of trays bearing the apportioned food, in the transfer vehicle to the second location;"	Specification, col. 3, Ins.18-20 expressly stating "The racked arrays are then loaded into a refrigerated transfer vehicle whereby the food is transferred to location 31.
	3/10/2003	(f) added terms "refrigerated" In. 8, and "moveable", In. 16.	Specification col. 3, In 19, and Specification col. 3, Ins 28-30 and col. 2, Ins 41-42 disclosing mobility and moving the regeneration trolley.
	7/7/2003	(g) added term "manually maneuverable", In 7.	Specification col. 3 Ins. 16-28 and col. 3, In. 54 through col. 4, In 27, clearly indicate that the trays and racks are handled manually by service personnel. The interaction of the trays, racks and trolley, i.e. loading the racks with food trays, charging the trolley with racks, cleaning the trolley etc., by appropriate staff is efficient, cost effective and space saving.
	11/6/2003	(h) added "plurality" of trays, Ins, 5, 6, 10, 11, 13 and 18.	Specification, col. 2 lines 46-54 disclosing "Each pair of rails serves to accommodate a pair of trays."
Claim 3	11/6/2003	(a) added "plurality" of trays, In. 3.	Specification, col. 2 lines 46-54 disclosing "Each pair of rails serves to accommodate a pair of trays."
Claim 4	11/6/2003	(a) added "plurality" of trays, In. 2.	Specification, col. 2 lines 46-54 disclosing "Each pair of rails serves to accommodate a pair of trays."
Claim 5	11/6/2003	(a) added "plurality" of trays, Ins. 2 and 3.	Specification, col. 2 lines 46-54 disclosing "Each pair of rails serves to accommodate a pair of trays."
Claim 9	11/4/2002	(a) added phrase "as the receptacle"; In. 2.	Specification, col. 2 lines 3-6 stating "...by way of heating and/or cooling means located in the containment."

		(b) replacing term "regeneration" with "rethermalizing", ln. 3.	Examiner's requirement from Official Action of 2/01/02.
	11/6/2003	(c) added "plurality" of trays, lns. 3 and 4.	Specification, col. 2 lines 46-54 disclosing "Each pair of rails serves to accommodate a pair of trays."
Claim 10	11/4/2002	(a) added phrase "as the receptacle", ln. 3.	Specification, col. 2 lines 3-6 stating "...by way of heating and/or cooling means located in the containment."
		(b) replacing term "regeneration" with "rethermalizing" ln. 6, and antecedent basis corrections.	Examiner's requirement from Official Action of 2/01/02.
	7/7/2003	(c) added "/" editorial in nature	Editorial amendment
	11/6/2003	(d) added "plurality" of trays, ln. 7.	Specification, col. 2 lines 46-54 disclosing "Each pair of rails serves to accommodate a pair of trays."
Claim 11	11/6/2003	(a) replace "a" with "the" plurality of trays, ln 2.	Antecedent basis.
Claim 12	3/1/2002	(a) added article "the" rack ln 2.	Editorial amendment
		(b) replacing term "regenerating" with "rethermalizing", ln 3.	Examiner's requirement from Official Action of 2/01/02.
	11/6/2003	(c) added "plurality" of trays, lns. 2 and 4.	Specification, col. 2 lines 46-54 disclosing "Each pair of rails serves to accommodate a pair of trays."
Claim 16	7/7/2003	(a) deleted phrase with "...mobile receptacle.." in favor of added term "moveable" receptacle, ln. 3.	Specification col. 3, lns 28-30 and col. 2, lns 41-42 disclosing mobility and moving the regeneration trolley.
Claim 17	3/1/2002	(b) removed conjunction "and", ln. 2.	Editorial amendment.
	7/7/2003	(c) changed term "mobile" to "moveable", ln. 4.	Specification col. 3, lns 28-30 and col. 2, lns 41-42 disclosing mobility and moving the regeneration trolley.
Claim 18	7/7/2003	(a) changed term "mobile" to "moveable", ln. 3.	Specification col. 3, lns 28-30 and col. 2, lns 41-42 disclosing mobility and moving the regeneration trolley.

Claim 23	11/4/2002	(a) replacing term "regeneration" with "rethermalization"	Examiner's requirement from Official Action of 2/01/02.
		(b) term "loading" moved from ln. 4 to ln 5.	Editorial amendment
		(c) added the step of "transporting the rack, containing the at least one tray bearing the apportioned food, in the transfer vehicle to the remote location;"	Specification, col. 3, lns.18-20 expressly stating "The racked arrays are then loaded into a refrigerated transfer vehicle whereby the food is transferred to location 31.
		(d) replacing term "regenerate" with "rethermalize".	Examiner's requirement from Official Action of 2/01/02.
	3/10/03	(e) added terms "manually maneuverable", ln. 6," refrigerate" ln. 10 and "moveable", ln. 16	Specification col. 3 lns. 16-28 and col. 3, ln. 54 through col. 4, ln 27. Supra claim 2 ref. (g)  Specification, col. 3, lns.18-20. Supra claim 2, ref. (e).  Specification col. 3, lns. 28-30 and col. 2, lns. 41-42 disclosing mobility and moving the regeneration trolley.
		(f) added step of "providing the rack with a predetermined stacking arrangement of particular dimensions" lns.6-8.	Specification col. 2 lns. 51-54 discussing the racked array 15 for holding food trays.
	7/7/2003	(g) canceled redundant claim elements to make claim dependent upon claim 32.	Claim 32 was previously an independent claim.
Claim 24	11/6/2003	(a) punctuation amendment	Editorial amendment.
Claim 26	11/6/2003	(a) added "plurality" of trays, ln 3.	Specification, col. 2 lines 46-54 disclosing "Each pair of rails serves to accommodate a pair of trays."
Claim 27	11/6/2003	(a) added "plurality" of trays, ln 3, 2 occurrences.	Specification, col. 2 lines 46-54 disclosing "Each pair of rails serves to accommodate a pair of trays."
Claim 28	11/6/2003	(a) added "plurality" of trays, ln 3.	Specification, col. 2 lines 46-54 disclosing "Each pair of rails serves to accommodate a pair of trays."

Claim 32	11/4/2002	(a) replacing term "regenerate" with "rethermalize", Ins 2, 16 and 19	Examiner's requirement from Official Action of 2/01/02.
		(b) Added phrase "at a first location", ln. 4.	Specification col. 3, Ins 9-23 discussing transfer of racks and trays from supply location 30 to consumer location 31.
	3/10/2003	(c) added term "manually maneuverable", Ins. 5, 6.	Specification col. 3 Ins. 16-28 and col. 3, ln. 54 through col. 4, ln 27. Supra claim 2 ref. (g).
		(d) added term "refrigerate", ln. 7.	Specification, col. 3, Ins.18-20 expressly stating "The racked arrays are then loaded into a refrigerated transfer vehicle whereby the food is transferred to location 31.
		(e) added term "moveable", ln.13.	Specification col. 3, Ins 28-30 and col. 2, Ins 41-42 disclosing mobility and moving the regeneration trolley.
	7/7/2003	(f) antecedent basis amendment	Editorial amendment.
	11/6/2003	(g) added "plurality" of trays, Ins 3, 6, 7, 9, 12 and 19.	Specification, col. 2 lines 46-54 disclosing "Each pair of rails serves to accommodate a pair of trays."
Claim 41	11/4/2002	(a) replacing term "regenerate" with "rethermalize", ln. 15.	Examiner's requirement from Official Action of 2/01/02.
		(b) replacing term "regenerated" with "rethermalized", ln. 17.	Examiner's requirement from Official Action of 2/01/02.
	7/7/2003	(c) amended to be dependent on claim 32.	Redundant claim recitations of claim 41 were canceled from the claim.

In accordance with the Examiner's indication that the Reissue Declaration did not include the Foreign Priority in accordance with 37 CFR 1.63, a new Declaration including form PTO/SB/02B listing the foreign applications, is herewith submitted including the claim for foreign priority under 35 U.S.C. § 119(a)-(d) perfected in the original patent. The Reissue Declaration has been executed by the inventor, Angelo Speranza, who is also the Managing Director of the Assignee Burlodge, Ltd. Please note that the at least one error upon which reissue is based is exactly the same as previously submitted in the previous Reissue Declaration.

Regarding the Special Program Examiner's notes regarding the specification amendments of November 4, 2002, the Applicant notes that a marked up copy showing the

changes made to the specification in accordance with 37 CFR 1.173(b) and (d) was included in that response. Please find attached a copy of the marked-up specification amendments from the response of November 4, 2002 as requested by the Examiner.

A new Statement Under 37 CFR 3.73(b) including a statement that Angelo Speranza, the Managing Director of the Assignee, Burlodge Ltd., is authorized to act on behalf of the Assignee. As noted above, we point out again that Angelo Speranza is also the inventor in this matter.

As the original letters patent has already been surrendered with the response of January 13, 2004, it is respectfully submitted that this reissue application can now proceed to issue. If any further action is necessary in order for this case to proceed to issue, the Examiner is courteously solicited to contact the undersigned Representative of the Applicant to discuss the same.

In regards to the drawing objections by the Special Program Examiner, the original patent drawings were amended with the Applicant's response of November 4, 2002 to account for the minor specification amendments submitted on the same date. Specifically, with regards to Fig. 3, the drawing amendment was made to account for "path S" in column 3, para. 3 of the specification, "path W" was replaced with "path RM" at column 3, para. 2 of the specification, and the reference number "15" was added to each incident of "racks" in column 3, paras. 2, 3 and 4. Also in regards to Fig. 2, the references M1 and M2 from column 2, line 45 have been added and an unnecessary underlining of references 20A, 20B were removed. Finally, the replacement drawing sheet for Fig. 3 now correctly shows the line extending from block 35 to the path S which was inadvertently omitted in the previous replacement sheet.

The objections raised to the drawings are thus acknowledged by the Applicant. New annotated drawings of Figs 2 and 3 showing the changes made, and replacement sheets including Figs. 1, 2 and 3 of the drawings, overcoming all of the raised drawing objections, are herewith submitted. If any further amendments to the drawings is believed necessary the Applicant respectfully requests the Examiner to contact the undersigned Attorney of Record to discuss the same.

In view of the foregoing, and the fact that this case is currently involved in litigation, it is respectfully submitted that the above noted amendment to claim 1, and the Applicant's responses and remarks to the raised objections to the formality of the present case be expeditiously considered. The above noted issues both formal or otherwise are believed to be overcome and that this application is now placed in a condition for allowance. Action to that end, in the form of an early Notice of Allowance, is courteously solicited by the Applicant at this time



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REISSUE LITIGATION

In the event that there are any fee deficiencies or additional fees are payable, please charge the same or credit any overpayment to our Deposit Account (Account No. 04-0213).

Respectfully submitted,



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## VERSION WITH MARKINGS TO SHOW CHANGES MADE

Supply location **30** represents a food preparation area for supplying a number of consumer sites **31, 32, 33** which are in this case hospitals which are some distance from each other and from supply location **30**. The supply location receives raw materials and supplies by path W. At the supply location **30** food is prepared, cooled and plated and individual amounts for an individual consumer at one of the consumer sites are placed on a tray. Trays for delivery to a particular consumer location **31** are placed on one or more racks as described in relation to FIG. 1. The racked arrays are then loaded into a refrigerated transfer vehicle **35** whereby the food is transferred to location **31**. The vehicle is equipped with a load space incorporating suitable cooling means to ensure that trays of food in each rack does not exceed predetermined limits.

The transfer vehicle **35** then delivers along path S the racked arrays bearing the food to consumer site **31**. At an intermediate location **34** at the site each racked array is unloaded from the vehicle **35** and loaded into a regeneration trolleys **11** of the type described in connection with FIG. 1. The loaded trolley **11** is then moved closer to the location of the eventual consumers of the contents of the trolley **11**. The trolley **11** is connected to a power supply and is then powered up to enable the food content of the racked array to be automatically regenerated according to a predetermined program held in the control unit of the trolley. Once regeneration has been completed the trolley **11** is opened and the trays and their contents distributed to the recipients.